

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
MARVIN CRUZ,
Defendant.

Case No. 12-cr-00344-PJH-1

**ORDER DENYING MOTION FOR
REDUCTION OF SENTENCE**

Re: Dkt. No. 61

Before the court is the motion of Marvin Cruz to modify and reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2) in light of Amendment 782 to the United States Sentencing Guidelines Manual. Effective November 1, 2014, Amendment 782 revises the Drug Quantity Table in USSG §2D1.1, applicable to sentences imposed for certain drug-related convictions. Although Amendment 782 may be applied retroactively to previously-sentenced defendants, the court may not order a reduced term of imprisonment based on Amendment 782 unless the effective date of the court's order is November 1, 2015, or later. USSG §1B1.10(e)(1).

The Probation Office has prepared and filed a sentence reduction investigation report, to determine whether Cruz is entitled to a reduction under Amendment 782. The Probation Office concludes that Cruz does not benefit from the amendment because he is scheduled to be released from custody on October 19, 2015, and the retroactive application of Amendment 782 does not take effect until November 1, 2015. The Probation Office represents that the government agrees that Cruz is not entitled to a

1 reduction. Furthermore, the Federal Public Defendant's Office has filed statement of
2 non-opposition to the Probation Office report, and does not intend to file a superseding or
3 replacement motion on Cruz's behalf. Doc. no. 66.

4 Because Cruz is scheduled to be released from custody before the earliest
5 possible effective date of an order of sentence reduction, no relief is available under
6 Amendment 782. The motion for sentence reduction is therefore DENIED.

7 **IT IS SO ORDERED.**

8 Dated: December 4, 2014

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10 PHYLLIS J. HAMILTON
11 United States District Judge
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